



DEPARTMENT OF TRANSPORTATION

MATERIALS TRANSPORTATION BUREAU

WASHINGTON, D.C. 20590

7947

Title 46—Shipping

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[Docket No. HM-133; Amdt. to 146]

PART 146—TRANSPORTATION OR STORAGE OF EXPLOSIVES OR OTHER DANGEROUS ARTICLES OR SUBSTANCES, AND COMBUSTIBLE LIQUIDS ON BOARD VESSELS

Definitions for Flammable and Combustible Liquids

On December 31, 1975, the Materials Transportation Bureau published in Docket No. HM-133; Amendment to 146 (40 FR 60030), several amendments to Part 146 of Title 46 Code of Federal Regulations. The amendments provided new definitions for flammable and combustible liquids with respect to the transportation of those materials aboard vessels. Under the same docket, additional amendments to Part 146 were made to make the regulations dealing with the transportation of flammable and combustible liquids aboard vessels compatible with the regulations in 49 CFR dealing with the transportation of those materials by surface modes. The amendments issued under Docket HM-133 were announced to become effective on March 31, 1976.

The Bureau has received several petitions for reconsideration of the amendments made in Docket HM-133. They have brought to the Bureau's attention that the amendments do not provide the necessary compatibility between 46 CFR and 49 CFR with respect to transporting flammable and combustible liquids. Specifically, the petitions state that because § 146.04-5 "List of explosives and other dangerous articles and combustible liquids," identifies the materials listed in the amendment by their technical names, the materials cannot be identified by general descriptive names (i.e., Flammable liquid n.o.s.) when they are transported by vessel.

The petitions point out that when those same materials are transported by surface vehicle, they are identified by the general descriptive name because the technical names for those materials do not appear in 49 CFR. Because of this inconsistency, if the amendment to § 146.04-5 of 46 CFR as published in Docket HM-133 were allowed to go into effect, unnecessary marking and shipping paper problems would be encountered when transferring any of the affected materials from a surface vehicle to a vessel. By this document, the Bureau is correcting the amendment to § 146.04-5, made under Docket HM-133, to allow the materials listed in the amendment to be identified by general descriptive names when being transported by vessel.

The petitioners also pointed out that the amendments under Docket HM-133 that revoke §§ 146.21-70, 146.21-75, 146.-

21-77, and 146.21-79 of 46 CFR as of March 31, 1976, will result in the requirement for specification packagings for materials specified in these subsections when shipped in containers of 5-gallon capacity or less. The Bureau agrees that revocation of those subsections should be open to public comment. Therefore, the revocations will not take effect as announced. If the Bureau considers a future amendment of those subsections, the public will be invited to participate in that rule making.

In addition, the authority for the issuance of the amendments under Docket HM-133 was incorrectly cited to include 46 U.S.C. 391(a). This document corrects the authority citation to exclude the reference to 46 U.S.C. 391(a).

In consideration of the foregoing, the amendments to Part 146 of 46 CFR issued on December 31, 1975 under Docket HM-133 (40 FR 60030) to become effective on March 31, 1976, are changed as follows:

§ 146.04-5 [Amended]

1. In Amendment 5 (§ 146.04-5), the semicolon following "Turpentine" is changed to a period and the remainder of the amendment, including the table, is deleted.

2. The revocation of §§ 146.21-70, 146.-21-75, 146.21-77, and 146.21-79 announced in Amendment 9 will not take effect as announced. Those sections will remain in full force and effect, and read as follows:

§ 146.21-70 Limited quantity shipments of paint products.

(a) Paint, enamel, lacquer, stain, shellac, varnish, aluminum, bronze, gold, wood filler, liquid, and lacquer base liquid and thinning reducing and removing compounds therefor, and driers, liquid therefor, when packed in inside glass or earthenware containers of not over 1-quart capacity each, or metal containers not over 5 gallons capacity each, and packed in strong outside containers are exempt from specification packaging, marking other than name of contents, and labeling requirements. When fiberboard box is used for such shipments by water gross weight must not exceed 65 pounds.

(b) Such shipments may be accepted on board all vessels subject to the regulations in this part, provided the bill of lading or other shipping paper correctly describes the article in accordance with the true name as shown in the commodity list. Stowage shall be "On deck under cover" or "Tween decks" in a compartment not subject to artificial heat.

§ 146.21-75 Limited quantity shipments of polishes.

(a) Polishes, metal, stove, furniture and wood, liquid, when packed in inside glass or earthenware containers of not

over 1 quart capacity each, or metal containers not over 5 gallons capacity each, and packed in strong outside containers are exempt from specification packaging, marking other than name of contents, and labeling requirements.

(b) Such shipments may be accepted on board all vessels subject to the regulations in this part, provided the bill of lading or other shipping paper correctly describes the article in accordance with the true name as shown in the commodity list. Stowage shall be "On deck under cover" or "Tween decks" in a compartment not subject to artificial heat.

§ 146.21-77 Limited quantity shipments of cements.

(a) Cements, except cements containing carbon bisulfide, in glass, earthenware, or leakproof containers with fiberboard bodies and metal tops and bottoms of not over 1 quart capacity each, or metal containers of not over 5 gallons capacity each, packed in strong outside containers are exempt from specification packaging, marking other than name of contents and labeling requirements.

(b) Such shipments may be accepted on board all vessels subject to the regulations in this part, provided the bill of lading or other shipping paper correctly describes the article in accordance with the true name as shown in the commodity list. Stowage shall be "On deck under cover" or "Tween decks" in a compartment not subject to artificial heat.

§ 146.21-79 Limited quantity shipments of inks.

(a) Inks, when packed in glass or earthenware containers of not over 1 quart capacity each, or metal containers not over 5 gallons capacity each, and packed in strong outside containers are exempt from specification packaging, marking other than name of contents, and labeling requirements.

(b) Such shipments may be accepted on board all vessels subject to the regulations in this part, provided the bill of lading or other shipping paper correctly describes the article in accordance with the true name as shown in the commodity list. Stowage shall be "On deck under cover" or "Tween decks" in a compartment not subject to artificial heat.

[CGFR 65-52, 30 FR 15218, Dec. 9, 1965]

3. The authority citation for Docket HM-133 is corrected to read as follows: (49 U.S.C. 170(7), 49 CFR 1.53(f)).

The authority for making these changes to the Amendments issued under Docket HM-133 is: (49 U.S.C. 17)(7) and 49 CFR 1.53(f)).

Effective Date: These changes to the amendments issued under Docket HM-133 are effective on February 23, 1976.

Issued in Washington, D.C. on February 17, 1976.

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Director,

Materials Transportation Bureau.

[FR Doc.76-1968 Filed 2-20-76; 8:45 am]

FEDERAL REGISTER, VOL. 41, NO. 36—MONDAY, FEBRUARY 23, 1976

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